

The Conference agrees that the grants should be awarded pursuant to an agreement between the Departments of Homeland Security and Transportation. These two Departments are required to make their determination on the basis of what is the most efficient and effective method to deliver these grants directly to the transit agencies. The Conference expects that the delivery system chosen will reflect the system that meets these criteria. We note that there have been some concerns with the efficiency, efficacy and timeliness of the disbursal of these grants and believe that it is critical that the Secretaries reach a decision that will provide for these grants to be distributed as efficiently, effectively and quickly as possible. The Conference substitute in Section 1406(e) declares that all requirements of Section 5307 of Title 49 shall be applied to the recipients of these grant funds. Whichever Department distributes and awards the grants will have to be responsible for ensuring that those requirements are met.

The Conference substitute also includes a list of eligible capital expenses and separately, a list of eligible operating expenses for the distribution of grant funds, and retains Senate language addressing coordination with State homeland security plans, multi-state transportation systems, Congressional notification and the requirement that transit systems return any misspent grant funds.

The Conference substitute includes authorization levels for each year, although the overall amount of \$3.5 billion was similar to the Senate bill. In addition, the Conference substitute includes a structure that caps the amount of funds that can be used for operational expenses each year of the authorization, declining from 50 percent in Fiscal Year 2008 to 10 percent in 2011. The Conference expects that training costs will be the predominant use of operating funds in the first two years of the program which led to the decreasing limitation on operating funds over the life of the bill. The Conference substitute provides the Secretary with a waiver of the limitation on operating expenses, provided such waiver is used only in the interest of national security. Use of the waiver requires Congressional notification, prior to any such action. The Conference substitute also requires any funds distributed under Public Law 110-28 to be allocated based on risk and distributed solely to address security issues that have already been identified in security assessments.

Section 1407. Security exercises

There is no comparable House provision.

The Senate bill did not include a separate exercise provision, although security exercises were an eligible expense under the program, as shown in Section 1504(b).

The Conference substitute adopts more specific language and requirements for the Secretary to establish a program for conducting security exercises. The program shall cover public transportation agencies, Federal, State and local governments, including emergency response providers and law enforcement as well as any other organizations that the Secretary determines are appropriate to include.

Section 1408. Public transportation security training program

There is no comparable House provision.

Section 1505 of the Senate bill contains a transit security training program detailing how the Secretary, in consultation with appropriate officials, is required to develop and issue detailed regulations for a public transportation worker security training program. Public transportation agencies who receive security funding must develop a comprehensive worker training program and submit it

to the Secretary for approval. The Secretary must review the program and make necessary revisions. No later than one year after the plan has been established and reviewed, the public transportation agency must complete the training of all workers. The Secretary is required to report to Congress on the training program and update it as necessary.

The Conference substitute adopts the security training program with modification. The Conference substitute requires all public transportation systems that receive security grants under this Title to train all frontline public transportation employees and other workers, as appropriate. The training requirement is for both initial and ongoing training for any agency that receives a security grant. The Conference substitute requires the Secretary to issue regulations, including interim final regulations, to implement the training requirement. In developing these regulations the Secretary must consult with appropriate law enforcement, fire service security, terrorism experts, representatives of public transportation systems and nonprofit employee labor organizations representing public transportation workers or emergency response personnel. Public transportation agencies that receive security funding must develop a comprehensive employee training program and submit it to the Secretary for approval. The Secretary must review the program and make necessary revisions. Not later than one year after each public transportation agency's training program has been established and reviewed, the public transportation agency must complete the training of all workers covered under the program. The Conference substitute also includes a study to be conducted by the Comptroller General on the implementation of the training program, requiring a survey of transit agencies and employees.

Section 1409. Public transportation research and development

There is no comparable House provision.

Section 1507 of the Senate bill includes a transportation research and development section to establish, through the Homeland Security Advanced Research Projects Agency, and in consultation with the Federal Transit Administration, a program to distribute grants or contracts to public and private entities to conduct appropriate research into technologies or methods of deterring and mitigating the effects of terrorist attacks. The Secretary must report to the Congress on the use of these funds and if the Secretary determines that grant funds were misspent, the grantee shall return grant funds to the Treasury of the United States.

The Conference substitute adopts the Senate provision with a modification to establish a research and development program related to public transportation. The program will be established through the Homeland Security Advanced Research Projects Agency in the Science and Technology Directorate and will consult with the Federal Transit Administration. Grants and/or contracts will be awarded to public or private entities to conduct research or demonstrate technologies and methods to reduce and deter terrorist threats or to mitigate damage resulting from an attack. The Conference substitute also adopts language regarding privacy and civil rights and the Senate language on reporting and misspent grant funds and requires coordination with the priorities included in the National Strategy for Public Transportation Security. The Conference substitute authorizes \$25,000,000 per year for this program.

Section 1410. Intelligence sharing

There is no comparable House provision.

The Senate bill, Section 1506, required the Secretary to provide sufficient financial assistance for the reasonable costs of the Information Sharing and Analysis Center for Public Transportation (ISAC). All transit agencies would be encouraged to participate in the ISAC and those that the Secretary deemed to be at significant risk would be required to participate. The imposition of fees was prohibited.

The Conference substitute adopts the Senate proposal with modification. It includes a report to be conducted by the Comptroller General to examine the value and efficacy of the ISAC along with any other public transportation information sharing programs ongoing at the Department of Homeland Security, including the Homeland Security Information Network (HSIN) system. The Conference substitute also authorizes specific dollar amounts for the ISAC for Fiscal Years 2008-2010 and such sums as necessary for 2011 provided the Comptroller's report has been submitted to Congress.

Section 1411. Threat assessments

There is no comparable House provision.

There is no comparable Senate provision.

The Conference substitute requires the Secretary to complete a name-based security background check of public transportation front-line employees against the consolidated terrorist watch list and an immigration status check, within one year after the date of enactment, similar to the threat assessment conducted by the U.S. Coast Guard with regard to facility employees and longshoremen.

Section 1412. Reporting requirements

There is no comparable House provision.

Section 1508 of the Senate bill includes a reporting section that required the Secretary to submit a semi-annual report to the Committee on Banking, Housing and Urban Affairs, the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations, on the implementation of the capital and operational grant programs, the use of funds and the State of public transportation security in the United States. It further requires the Secretary to submit an annual report regarding the amount and use of grant funds to the Governor of each State with a public transportation agency that has received a grant.

The Conference substitute broadens the reporting requirements included in the Senate bill to ensure that Congress receives substantive, useful information regarding public transportation security from the Department of Homeland Security. To that end, the Conference substitute includes an annual report to Congress, due on March 31st of each year, that includes: a description of the implementation of the provisions of Title XIV; the amount of funds appropriated to carry out the title that have not been spent; the National Strategy for Public Transportation Security; an estimate of the costs to fully implement the National Strategy for Public Transportation Security, to be broken out for each Fiscal Year from 2008 through 2018; and the state of public transportation security in the United States. The Conference substitute maintains the Senate's requirement of an annual report to the Governors.

Section 1413. Whistleblower protection

There is no comparable House provision.

The Senate bill modifies existing whistleblower protections for rail employees.

The Conference substitute adopts protections for public transportation employee whistleblowers, modeled on the protections available to railroad employees under 49 U.S.C. 20109 as amended by this Act and aviation employees under 49 U.S.C. 42121.

Section 1414. Security background checks of covered individuals for public transportation

There is no comparable House provision.